

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

In Re: : Pursuant to Sections 1401, 1402
: and 1403 of the Insurance Holding
Application of Diversus, Inc. in Support : Companies Act, Article XIV of the
of the Request for Approval to Acquire : Insurance Company Law of 1921, Act
Control of Physicians' Insurance : of May 17, 1921, P. L. 682, as
Program Exchange : amended, 40 P.S. §§991.1401,
: 991.1402 and 991.1403
: :
: Order No. ID-RC-15-17

DECISION AND ORDER

AND NOW, on this 12th day of November, 2015, Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania ("Commissioner"), hereby makes the following Decision and Order:

Pursuant to the Insurance Holding Companies Act and in consideration of the documents, presentations and reports received, as well as other inquiries and studies as permitted by law, the Commissioner hereby makes the following findings of fact:

FINDINGS OF FACT

Identity of Parties

Identity of PA Domestic Insurer

1. Physicians' Insurance Program Exchange ("PIPE") is an unincorporated association organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Upper Gwynedd, Pennsylvania. PIPE is authorized as a reciprocal and inter-insurance exchange.
2. Physicians' Insurance Program Management Company ("PMC") is a domestic business corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Upper Gwynedd, Pennsylvania. PMC is the attorney-in-fact for PIPE.

3. Eugene Ziembra Sr. ("Ziembra") owns 100% of the outstanding voting securities of PMC.
4. Ziembra is the current sole ultimate controlling person of PIPE.

Identity of Applicants

5. Diversus, Inc. ("Diversus") is an insurance holding company organized under the laws of State of Delaware with its principal place of business in Alpharetta, Georgia.
6. Joycian Limited ("Joycian") is company organized under the laws of the British Virgin Islands. Joycian holds greater than 10% of the voting securities of Diversus.
7. The 2012 Sara M. Carpenter Irrevocable Trust ("2012 Trust") is a trust fund organized under the laws of the State of Georgia. 2012 Trust holds greater than 10% of the voting securities of Diversus.
8. The Diane P. Campbell 2013 Irrevocable Trust ("2013 Trust") is a trust fund organized under the laws of the Commonwealth of Pennsylvania. 2013 Trust holds greater than 10% of the voting securities of Diversus.
9. Alan A. Waring ("Waring") is an individual with his principal place of business in Hamilton, Bermuda. Waring controls 100% of the voting power of Joycian.
10. Wade A. Carpenter ("Carpenter") is an individual with his principal place of business in Mount Berry, Georgia. Carpenter controls 100% of the voting power of 2012 Trust.
11. Diane P. Campbell ("Campbell") is an individual with her principal place of business in Berwyn, Pennsylvania. Campbell controls 100% of the voting power of 2013 Trust.

Acquisition Filing

12. The Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1922, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. ("Insurance Holding Companies Act"), provides that all changes in control of domestic insurers must be filed with the Commissioner for approval or disapproval.
13. On July 23, 2015, the Insurance Department of the Commonwealth of Pennsylvania ("Department") received an application (which together with all material received subsequently is hereinafter referenced as "Application") from Diversus for approval to acquire control of PIPE.

14. The Application was filed pursuant to Section 1402 of the Insurance Holding Companies Act.

Department Procedures

15. On August 8, 2015, the Department published notice in the *Pennsylvania Bulletin* that the Application was submitted by Diversus and such notice invited interested persons to submit comments to the Department regarding the Application for 30 days following the date of the publication (“Comment Period”).
16. The Department received no comments regarding the Application during the Comment Period.

Description of the Proposed Acquisition

17. As described in the Application, on July 7, 2015, Diversus and Ziemba entered into a Stock Purchase Agreement (“Agreement”).
18. As described in the Application and pursuant to the Agreement, Diversus intends to acquire 100% of the issued and outstanding capital stock of PMC from Ziemba (“the Acquisition”).
19. As described in the Application, PMC will continue as the attorney-in-fact for PIPE, and, as a result, Diversus will control PIPE.
20. As described in the Application, Diversus would fund the entire purchase price from a combination of senior debt financing and common equity.
21. As described in the Application and subsequent to the Acquisition, Diversus would directly control 100% of PMC. PMC would continue in existence as a business corporation under Pennsylvania law and would continue to control PIPE through their attorney-in-fact relationship.
22. As described in the Application, Waring, Carpenter and Campbell would become the ultimate controlling persons of PIPE as a result of the Acquisition.

Standards for Review

23. Section 1402(f)(1) of the Insurance Holding Companies Act establishes the standards for approval of an application for a change in control of a domestic insurer.

Licensing Requirements

24. When analyzing an application for change in control under Section 1402 of the Insurance Holding Companies Act, the Commissioner reviews the requirements for continued licensure of the domestic insurer being acquired.
25. The classes of insurance for which a reciprocal and inter-insurance exchange may be formed and become licensed to write are set out in Section 1001 of the Insurance Company Law (40 P.S. §961).
26. The minimum surplus required of a reciprocal and inter-insurance exchange is set out in Section 1004 of the Insurance Company Law (40 P.S. §964).
27. In accordance with Section 1004 of the Insurance Company Law (40 P.S. §964), PIPE is required to maintain a minimum surplus of \$1,125,000 to write the class of insurance for which it is presently licensed.
28. As of June 30, 2015, PIPE maintained the statutory minimum capitalization to satisfy the requirements to write the line of insurance for which it is presently licensed.
29. Upon completion of the transaction, PIPE will have the statutory minimum capitalization to satisfy the requirements to write the line of insurance for which it is presently licensed.

Competitive Impact

30. The acquisition of control of PIPE is subject to review and analysis under Section 1403 of the Insurance Holding Companies Act to determine whether the effect of the acquisition of control would be to substantially lessen competition or tend to create a monopoly in the Commonwealth.
31. The acquisition of control of PIPE will not lessen competition or tend to create a monopoly in the Commonwealth because the market shares of those insurance company subsidiaries of Diversus licensed to transact the business of insurance in Pennsylvania and the market share of PIPE, as stated in its Application, do not exceed the market share levels established in Section 1403 of the Insurance Holding Companies Act.

Financial Condition of Applicant

32. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the financial condition of the acquiring person(s).

33. The Department reviewed the financial statements submitted for Diversus.
34. The Department reviewed the financial statements submitted for Waring, Carpenter and Campbell.
35. The financial condition of Diversus, Waring, Carpenter and Campbell would not pose any impediments to the change in control nor jeopardize the financial condition of PIPE.

Plans for the Acquired Insurer

36. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the plans or proposals which the acquiring party has for the insurer.
37. In particular, the Department reviewed the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, to determine whether it is:
 - a). Unfair or unreasonable;
 - b). Fails to confer a benefit upon policyholders; or
 - c). Not in the public interest.
38. As stated in the Application, Diversus has no future plans to declare an extraordinary dividend or to liquidate PIPE.
39. As stated in the Application, the officers and directors of PIPE will be replaced by the current officers and directors of Professional Casualty Association (“PCA”), a Pennsylvania domiciled reciprocal and inter-insurance exchange controlled by Diversus.
40. As stated in the Application, Diversus plans to convert both PIPE and PCA to stock form pursuant to the recently-enacted Medical Professional Liability Reciprocal Exchange-to-Stock Conversion Act (40 Pa.C.S. §§3501-3517) which will require separate filings and the approval of the Department.
41. There is no basis in the record from which it may be concluded that the plans or proposals which the acquiring party has for the insurer are unfair or unreasonable or fail to confer a benefit upon policyholders or are not in the public interest.

Management

42. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the competence, experience and integrity of the persons who will control the operations of the acquired insurer.
43. Biographical affidavits for Waring, Carpenter and Campbell were reviewed by the Department.
44. Biographical affidavits for all directors and officers of Diversus were reviewed by the Department.
45. Biographical affidavits for all expected new directors and officers of PIPE were reviewed by the Department.
46. The Department is satisfied that the persons who would control the operations of PIPE have such competence, experience and integrity that the interests of policyholders and the public would not be jeopardized.

Hazardous or Prejudicial to Insurance Buying Public

47. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department evaluates whether the merger, consolidation or other acquisition of control is likely to be hazardous or prejudicial to the insurance buying public.
48. There is no indication that the projected future business of PIPE would impose a financial burden upon policyholders.
49. Likewise, there is no indication that the transaction would result in PIPE being in impaired financial condition.
50. Nor is there a threat regarding the ability of policyholders to enforce their insurance contracts.
51. There is insufficient evidence in the record from which it may be concluded that the acquisition will likely be hazardous or prejudicial to the insurance buying public.

Compliance with the Pennsylvania Laws

52. When analyzing an application for an acquisition of control under Section 1402 of the Insurance Holding Companies Act, the Department reviews the transaction to determine whether the merger, consolidation or other acquisition

of control is not in compliance with the laws of this Commonwealth, including Article VIII-A.

53. The Department has evaluated the transaction as set forth by the Application as to whether it is in compliance with the laws of Pennsylvania.
54. If any of the above Findings of Fact are determined to be Conclusions of Law, they shall be incorporated in the Conclusions of Law as if fully set forth therein.

CONCLUSIONS OF LAW

1. Under Section 1402 of the Insurance Holding Companies Act, the Department has jurisdiction to review and approve the change in control of PIPE.
2. Under Section 1402 of the Insurance Holding Companies Act, the Department must approve an application for a change in control unless the Department has found that:
 - a) The insurer will not be able to satisfy the requirements for the issuance of a license to write the line or lines of business for which it is presently licensed;
 - b) The change in control will substantially lessen competition in insurance in this Commonwealth or tend to create a monopoly therein;
 - c) The financial condition of the acquiring party is such as might jeopardize the financial stability of the insurer or prejudice the interests of its policyholders;
 - d) Any plans to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable and fail to confer benefit on policyholders of the insurers and not in the public interest;
 - e) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders and of the public to permit the acquisition of control;
 - f) The acquisition is likely to be hazardous or prejudicial to the insurance buying public; or
 - g) The acquisition of control is not in compliance with the laws of this Commonwealth, including Article VIII-A, Insurance Company Mutual-to-Stock Conversion Act.

3. Under Section 1402 of the Insurance Holding Companies Act, the Commissioner has not found that any of the above conditions are present with respect to the change in control of PIPE.
4. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be incorporated in the Findings of Fact as if fully set forth therein.

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Program Exchange	:	<u>amended</u> , 40 P.S. §§991.1401,
	:	991.1402 and 991.1403
	:	:
	:	Order No. ID-RC-15-17

ORDER

Upon consideration of the foregoing, the Insurance Commissioner of the Commonwealth of Pennsylvania ("Commissioner") hereby makes the following Order:

The application of Diversus, Inc. ("Diversus") in support of the request for approval to acquire control of Physicians' Insurance program Exchange ("PIPE") as set forth in the application, is hereby approved, subject to this Order and the following condition:

1. Diversus shall provide to the Department a list of closing documents within five (5) days after consummation of the subject transaction and shall maintain the listed documents and make them available to the Department for a period of not less than five (5) years from the date of consummation.
2. For a period of six (6) months after the effective date of the subject transaction, Diversus shall not take affirmative action to reduce the number of employees of Physicians' Insurance Program Management Company ("PMC") principally located in Pennsylvania, without application to and the prior written approval of the Department.
3. For a period of two (2) years after the effective date of the subject transaction, Diversus shall provide written notice to the Department of any planned or proposed reductions in staff that would affect more than ten percent (10%) of the employees of PMC principally located in Pennsylvania as of, or within six (6) months prior to, the effective date of the subject transaction. For purposes of this condition, as of any date, the ten percent (10%) threshold shall be determined based upon a rolling twelve (12) month period. Such notice, which shall specify the reasons for the reduction in force and

include information regarding planned or proposed severance pay and relocation opportunity arrangements, shall be filed with the Department as least ninety (90) days prior to any such planned or proposed reductions.

4. For a period of two (2) years after the effective date of the subject transaction, PMC shall not close or cease actively doing business from:
 - a) Montgomery County, Pennsylvania; or
 - b) Any other office located in Pennsylvania,

in each case without application to and the prior written approval of the Department.

5. For a period of three (3) years after the effective date of the subject transaction, Diversus shall not voluntarily withdraw any certificate of authority to engage in the insurance business in the Commonwealth of Pennsylvania without the prior written approval of the Department.
6. For a period of three (3) years after the effective date of the subject transaction, Diversus shall not attempt to redomesticate PIPE to another jurisdiction without the prior approval of the Department.

This Order is effective immediately and valid for one (1) year, provided no material changes are made to the transaction prior to consummation. This one-year limitation does not apply to any conditions prescribed by the Department in the Order.



Teresa D. Miller
Insurance Commissioner
Commonwealth of Pennsylvania

